

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :14.10.2020

CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.4818 of 2020
WMP Nos.5710 & 5709 of 2020

S.Nithyanandam

.. Petitioner

.Vs.

1. The Commissioner,
Tamil Nadu State Co-operative
Societies Election Commission,
No.273, Kamadhenu Supermarket,
Chennai 600 018.
2. The Joint Registrar of Co-operrative Societies,
Vellore Region,
Vellore.
3. The Deputy Registrar of Co-operative Societies,
Vellore Circle,
Vellore District.
4. The Deputy Registrar of Co-operative Societies
Ranipet Circle,
Ranipet, Vellore District.
5. The Managing Director,
C 1435, Vellore District Consumer Co-operative
Wholesale Sales stores Limited,
New No.32, Officers Line,
Vellore - 632 001

..Respondents

Prayer:- Writ petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Cetiorarified Mandamus to call for the records in Na.Ka.No.1372/2018 A2 dated 06.02.2020 passed by the second respondent and quash the same and consequently, permit the petitioner to continue as Board of Director of the C, 1435, Vellore District Consumer Co-operative Whole Sale Sales Stores Limited, Vellore.

For Petitioner : Mr.S.Kamadevan

For Respondents: Mr.T.Girija
Additional Government Pleader

ORDER

This writ petition has been filed challenging the proceedings of the 2nd respondent dated 06.02.2020 and for a consequential direction to permit the petitioner to continue as a member of the Board of Director of Vellore District Consumer Co-operative Wholesale Sales Stores Limited, Vellore.

2. The case of the petitioner is that Co-operative election was held during the year 2018 and the petitioner was elected and he also assumed the office of Vice President at Aarapakkam Primary Agricultural Co-operative Bank. A writ petition came to be filed before this Court in WP No.9297 of 2018, seeking for a declaration to declare the election conducted to the society as illegal. By the time, the writ petition was filed, the Board of Directors had assumed office.

3. An order came to be passed on 12.09.2019 cancelling one portion of the election and for holding fresh election with respect to six board of directors alone relating to the general category from the stage of scrutiny of the nominations. The further case of the petitioner is that he was again elected again as a member of the board and as the Vice President of the Arapakkam Primary Agricultural Co-operative Credit Society Limited. In spite of the same, the 2nd respondent through impugned proceedings dated 06.02.2020 declared the post of Director in the 5th respondent stores as casual vacancy. Aggrieved by the same, the present writ petition has been filed before this Court.

4. The learned counsel for the petitioner submitted that both during the earlier election as well as in the subsequent election, the petitioner was elected to the Board of Directors and he has also been elected as the Vice President of the Arapakkam Primary Agricultural Co-operative Credit Society Limited. The learned counsel submitted that even without considering this factual scenario, the 2nd respondent has proceeded to assume that there is a casual vacancy in the Board of Directors and the same is illegal and requires the interference of this Court.

5. Mrs.T.Girija, learned Additional Government Pleader appearing on behalf of the respondents submitted that the earlier election was set aside by the Zonal committee and it was also upheld by this Court and therefore, the post fell vacant and the same was taken into consideration by the 2nd respondent in the impugned proceedings. The learned counsel further submitted that there is absolutely no ground to interfere with the proceedings of the 2nd respondent.

6. This Court has carefully considered the submissions

made on either side and the materials available on record.

7. It is an admitted case that the petitioner was elected to the Board of Directors of the 5th respondent stores during the election conducted in the year 2018. The same became a subject matter of dispute and ultimately, the zonal committee passed orders on 12.09.2019, setting aside the election and directed fresh election to be conducted with respect to six Board of Directors. This decision became a subject matter of challenge in WP No.32503 of 2019. It will be relevant to take note of the stand that was taken by the 3rd respondent in that writ petition and the same is extracted hereunder :-

12. It is submitted that in the aforesaid Hon'ble High Court it was categorically ordered that "14. In the light of the above discussion, this Court finds that there is no merit in this writ petition to interfere with the order of the Zonal Committee. Hence, this writ petition is dismissed". In these circumstances it is humbly submitted that without properly and carefully reading of the orders of the Zonal Committee and this Hon'ble Court's orders, the petitioner filed this writ petition.

13. It is submitted that as per election schedule, election to President and Vice President was conducted on 25.11.2019. It is submitted that above all it is quite interesting to submit that again Thiru A.M.Manoharan was elected as President and Thiru.S. Nithyanantham /Writ petitioner herein was elected as Vice President of the Arapakkam Primary Agricultural Co-operative Credit Society Limited. Copy of Election Officer's communication is appended herewith which may kindly be treated as part and parcel of this affidavit.

8. It is clear from the above that the respondents were aware about the fact that the petitioner was once again elected to the Board of directors and was further elected as the Vice President of the Arapakkam Primary Agricultural Co-operative Credit Society Limited. On such factual scenario, it is not known as to how the 2nd respondent came to a conclusion that there is a casual vacancy in the Board of Directors. This decision was arrived at by the 2nd respondent based on the cancellation of the earlier election and obviously the 2nd respondent has not taken into consideration the subsequent developments that took place wherein the petitioner was again elected as a Member in the Board of Directors and also as a Vice President of the concerned society.

9. In the considered view of this Court, the proceedings of the 2nd respondent suffers from non application of mind and

the same requires interference of this Court. In the result, the impugned proceedings of the 2nd respondent dated 06.02.2020 is hereby set aside and the writ petition is allowed. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

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+1cc to the Spl. Government Pleader, Sr.No.34353

+1cc to M/s.L.P.Shanmugasundaram, Advocate, Sr.No.34224

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